

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE PER CAPITA LEVY ON LIVESTOCK FOR PREDATOR CONTROL AND ENFORCING LIVESTOCK LAWS; AMENDING SECTIONS 15-24-303, 15-30-121, 15-31-114, 81-7-104, 81-7-303, AND 81-7-603, MCA; REPEALING SECTIONS 15-24-902, 15-24-903, 15-24-904, 15-24-905, 15-24-906, 15-24-921, 15-24-922, AND 15-24-925, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-24-303, MCA, is amended to read:

"15-24-303. Proration of tax on personal property -- refund. (1) The tax on personal property brought, driven, coming into, or otherwise located in the state on or after the assessment date must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year. This section does not apply to motor vehicles taxed under Title 61, chapter 3, part 5, ~~or to livestock subject to the per capita fee under 15-24-921.~~

(2) If property upon which taxes have been paid is removed from the state, the taxpayer may obtain a refund of a prorated portion of the taxes, subject to the requirements of 15-16-613."

Section 2. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:

(i) items provided for in 15-30-123;

(ii) state income tax paid;

(iii) premium payments for medical care as provided in subsection (1)(g)(i);

(iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and

1 (v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift
2 annuity as defined in 33-20-701;

3 (b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head
4 of household, or married filing separately or \$10,000 if married and filing jointly;

5 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through
6 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as
7 follows:

8 (i) expenses for household and dependent care services necessary for gainful employment incurred for:

9 (A) a dependent under 15 years of age for whom an exemption can be claimed;

10 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income
11 do not apply, who is unable to provide self-care because of physical or mental illness; and

12 (C) a spouse who is unable to provide self-care because of physical or mental illness;

13 (ii) employment-related expenses incurred for the following services, but only if the expenses are incurred
14 to enable the taxpayer to be gainfully employed:

15 (A) household services that are attributable to the care of the qualifying individual; and

16 (B) care of an individual who qualifies under subsection (1)(c)(i);

17 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household
18 is furnished by an individual or, if the individual is married during the applicable period, is furnished by the
19 individual and the individual's spouse;

20 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

21 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during
22 the year only to the extent that the expenses do not exceed \$4,800;

23 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for
24 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
25 employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if
26 incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the
27 expenses incurred during the year do not exceed:

28 (I) \$2,400 in the case of one qualifying individual;

29 (II) \$3,600 in the case of two qualifying individuals; and

30 (III) \$4,800 in the case of three or more qualifying individuals;

(v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(vi) for purposes of this subsection (1)(c):

(A) married couples shall file a joint return or file separately on the same form;

(B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:

(I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

(C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;

(D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;

(e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

(f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;

(g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

(i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and

(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:

1 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

2 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the
3 taxpayer for tax years beginning after December 31, 1996;

4 (h) light vehicle registration fees, as provided for in 61-3-321(2) and 61-3-562, paid during the tax year;
5 and

6 (i) per capita livestock fees imposed pursuant to ~~15-24-921, 15-24-922~~, 81-6-104, 81-6-204, 81-6-209,
7 81-7-118, or 81-7-201.

8 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home
9 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child
10 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses
11 considered to have been paid for the care of the child.

12 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal
13 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of
14 care. The employment-related expenses apply regardless of whether any expenses actually have been paid.
15 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

16 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
17 deduction under this subsection (2)."

18
19 **Section 3.** Section 15-31-114, MCA, is amended to read:

20 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
21 deductions are allowed from the gross income received by the corporation within the year from all sources:

22 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance
23 and operation of its business and properties, including reasonable allowance for salaries for personal services
24 actually rendered, subject to the limitation contained in this section, and rentals or other payments required to
25 be made as a condition to the continued use or possession of property to which the corporation has not taken
26 or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the
27 recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income
28 derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

29 (b) (i) all losses actually sustained and charged off within the year and not compensated by insurance
30 or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the

1 trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue
2 Code in effect with respect to the taxable year. All elections for depreciation must be the same as the elections
3 made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings,
4 permanent improvements, or betterments made to increase the value of any property or estate, and a deduction
5 may not be made for any amount of expense of restoring property or making good the exhaustion of property for
6 which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant
7 as defined in 33-25-105(15).

8 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined
9 according to the provisions of 15-31-119.

10 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
11 for depletion and for depreciation of improvements. The reasonable allowance must be determined according
12 to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal
13 Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling
14 expenses for corporation license tax purposes must be the same as the elections made for federal income tax
15 purposes.

16 (d) the amount of interest paid within the year on its indebtedness incurred in the operation of the
17 business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness
18 created for the purchase, maintenance, or improvement of property or for the conduct of business unless the
19 income from the property or business would be taxable under this part.

20 (e) (i) taxes paid within the year, except the following:

21 (A) taxes imposed by this part;

22 (B) taxes assessed against local benefits of a kind tending to increase the value of the property
23 assessed;

24 (C) taxes on or according to or measured by net income or profits imposed by authority of the
25 government of the United States;

26 (D) taxes imposed by any other state or country upon or measured by net income or profits.

27 (ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school
28 district, or municipality of this state.

29 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

30 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify

1 for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

2 (ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion
3 of contributions made under this subsection.

4 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the
5 annuity is a qualified charitable gift annuity as defined in 33-20-701.

6 (h) per capita livestock fees imposed pursuant to ~~15-24-921, 15-24-922~~, 81-6-104, 81-6-204, 81-6-209,
7 81-7-118, or 81-7-201.

8 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
9 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
10 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
11 postsecondary school located in Montana if:

12 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
13 substantially completed;

14 (b) the property is not transferred by the donee in exchange for money, other property, or services; and

15 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
16 property and representing that the use and disposition of the property will be in accordance with the provisions
17 of subsection (2)(b).

18 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
19 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
20 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
21 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
22 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
23 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
24 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue
25 Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A
26 regulated investment company is not allowed a deduction for dividends received as defined in sections 243
27 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
28 amended or renumbered."

29
30 **Section 4.** Section 81-7-104, MCA, is amended to read:

1 **"81-7-104. Predator control money -- use of proceeds.** (1) The department ~~shall~~ may allocate a
2 portion of ~~the money from the fee under 15-24-921~~ available funds for the purpose of protecting livestock in the
3 state against destruction, depredation, and injury by predatory animals, whether the livestock is on lands in
4 private ownership, in the ownership of the state, or in the ownership of the United States, including open ranges
5 and all lands in or of the public domain. This protection may be by any means of effective predatory animal
6 destruction and control, including systematic hunting and trapping and payment of bounties.

7 (2) Money may be paid out only on claims presented to the department and approved by the department
8 in accordance with the law applicable either to claims for bounties or for other expenditures for predatory animal
9 control by methods other than payment of bounties, as determined by the department. Money designated for
10 predator control must be available for the payment of bounty claims and for expenditures for planned, seasonal,
11 or other campaigns directed or operated by the department in cooperation with other agencies for the systematic
12 destruction and control of predatory animals, as determined by the department and its advisory committee.
13 Claims may not be approved in excess of money available for that purpose, and warrants may not be registered
14 against the money."

15
16 **Section 5.** Section 81-7-303, MCA, is amended to read:

17 **"81-7-303. County commissioners permitted to require per capita license fee on sheep.** (1) To
18 defray the expense of protection, the board of county commissioners of a county may require all owners or
19 persons in possession of a sheep 1 year of age or older in the county on the regular assessment date of each
20 year ~~as provided in 15-24-903~~ to pay a per capita license fee in an amount to be determined by the board. All
21 owners or persons in possession of a sheep 1 year of age or older coming into the county after the regular
22 assessment date ~~and subject to the per capita levy under the provisions of Title 15, chapter 24, part 9,~~ are subject
23 to payment of the license fee.

24 (2) Upon the order of the board of county commissioners, the license fees may be imposed by entering
25 the name of the licensee upon the assessment record of the county by the department of revenue. The license
26 fees are payable to and must be collected by the county treasurer. When levied, the fees are a lien upon the
27 property, both real and personal, of the licensee. If the person against whom the license fee is levied does not
28 own real estate against which the license fee is or may become a lien, then the license fee is payable immediately
29 upon its levy and the treasurer shall collect the fee in the manner provided by law for the collection of personal
30 property taxes that are not a lien upon real estate.

(3) When collected, the fees must be placed in the predatory animal control fund and the fund may be expended on order of the board of county commissioners of the county for predatory animal control only. Interest earned on money in the fund must be deposited in the fund.

(4) Money from any source may be deposited in the predatory animal control fund provided for in this section to carry out the provisions of this part."

Section 6. Section 81-7-603, MCA, is amended to read:

"81-7-603. County commissioners permitted to levy per capita license fee on cattle. (1) To defray the expense of protection, the board of county commissioners may require all owners or persons in possession of any cattle 9 months of age or older in the county on the regular assessment date of each year ~~as provided in 15-24-903~~ to pay a per capita license fee in an amount to be determined by the board. All owners or persons in possession of cattle 9 months of age or older coming into the county after the regular assessment date ~~and subject to the per capita levy under the provisions of Title 15, chapter 24, part 9;~~ are subject to payment of the license fee.

(2) Upon the order of the board of county commissioners, the license fee may be imposed by entering the name of the licensee upon the assessment record of the county by the department of revenue. The license fee is payable to the county treasurer. When levied, the fee is a lien upon the property, both real and personal, of the licensee. If the person against whom the license fee is levied does not own real estate against which the license fee is or may become a lien, then the license fee is payable immediately upon its levy and the treasurer shall collect the fee in the manner provided by law for the collection of personal property taxes that are not a lien upon real estate.

(3) The fees must be placed in a predatory animal control fund separate from the fund provided for in 81-7-303. The money in the predatory animal control fund may be expended by the board of county commissioners only for the predatory animal control program. Interest earned on money in the fund must be deposited in the fund.

(4) Money from any source may be deposited in the predatory animal control fund provided for in this section to carry out the provisions of this part."

NEW SECTION. Section 7. Repealer. Sections 15-24-902, 15-24-903, 15-24-904, 15-24-905, 15-24-906, 15-24-921, 15-24-922, and 15-24-925, MCA, are repealed.

1

2 NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

3

4 NEW SECTION. **Section 9. Retroactive applicability.** [This act] applies retroactively, within the

5 meaning of 1-2-109, to livestock assessments after December 31, 2006.

6 - END -